

THE STUDY OF MAN

MORAL FREEDOM IN A DETERMINED WORLD

Responsibility and Sentimentalism

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IN THE last year of the Weimar Republic, when ordinary criminals were sometimes more philosophical than the judges of Hitler's Third Reich subsequently proved to be, a strange case was tried before the tribunal of Hannover. The evidence showed that one Waldemar Debbler had been guilty of burglary, and the prosecutor proposed two years of penal servitude. Whereupon the prisoner rose and said:

"Gentlemen, you see in me the victim of an unwavering destiny. So-called freedom of decision does not exist. Every human action in this world is determined. The causes are given by the circumstances and the results inevitable. By my inclinations of character, for which I am not responsible, since they were born in me, by my upbringing, my experiences, I was predetermined to become what I am. If you, gentlemen, had a heredity similar to mine and had been subjected to the same influence as I, you would also have committed the burglary in this particular situation. With this theory I am in good company. I refer you to Spinoza and Leibnitz. Even St. Augustine and, later, Calvin attributed all human actions to the immutable decree of destiny. As I have only done what I had to do, you have no moral right to punish me, and I therefore plead for my acquittal."

To which peroration the court answered: "We have followed the prisoner's reasoning with attention. Whatever happens is the necessary and immutable sequel of preceding causes which, once given, could not be other than it is. Consequently the prisoner, by reason of his character and experience, was destined to commit the burglary. On the other hand, destiny also decrees that the court, as a result of the submitted testimony, must judge the prisoner guilty of burglary. The causes—the deed, the law, the nature of the judge—being given, the sentence of guilty and punishment follows as a natural consequence."

When asked whether he accepted the sentence, the prisoner declared: "Destiny demands that I appeal." To which the judge replied: "That may be. However, destiny will see to it that your appeal is rejected."

This story, for whose authenticity with respect to exact detail I will not vouch, confuses the concept of determinism with that of fatalism. It confuses an event whose occurrence depends upon, or is caused by, what the individual in this particular situation desires and does, with an event whose occurrence does not depend upon any event antecedent to it, and which would occur no matter what the antecedent event was. It confuses conditional necessity with unconditional necessity, what is *predetermined* with what is predictable with reference to certain laws and initial data. It further fails to distinguish clearly between the concept of punishment and the concept of moral responsi-

SIDNEY HOOK requires no introduction. This article represents the slightly amended text of the Horace Kallen lecture, which he recently delivered at the New School for Social Research.

bility. Nonetheless, in its appeal to a double standard of judgment it illustrates a defect which appears in the writings of more sophisticated philosophers who have returned to the theme of determinism and moral responsibility in recent years.

Those philosophers who have thought that progress in philosophy consists in part in showing that the traditional problems of philosophy are either pseudo-problems, or a confusing mixture of psychology, logic, and sociology, have been rudely awakened from their complacency by a revival of interest in the question of free will, determinism, and responsibility. It had been widely assumed that the whole problem of whether the *will* is free had been replaced, in consequence of the writings of Hobbes, Locke, Hume, Mill, and the modern naturalists and positivists, by the problem of the *conditions* under which men's actions are free. The general solution had been that *men* are free when their actions are determined by their own will, and not by the will of others, or by factors which lead us to say that their actions were involuntary. To the extent that conditions exist which prevent a man from acting as he wishes (e.g., ignorance, physical incapacity, constraint used upon his body and mind) he is unfree. This view accepts the postulate of determinism as valid, regardless of whether a man's action is free or coerced—in one case his action is determined by his own volition, in the other not. The fact that my volition, say, to undergo an operation, is caused by a complex of factors, among which the existence of sickness or disease, or the belief in the existence of sickness or disease, is normally a necessary condition, does not make my action less free. After all, it would be absurd to suggest that my action in undergoing an operation would be free only if there were no cause or reason to undergo it. If one insisted on undergoing an operation when one knew there was no cause for the operation, one would normally be regarded as insane. That there would be a cause for the decision, for the insistence on the unnecessary operation, would not affect our judgment of it. On this view, the

distinction between free and unfree acts, sane or insane acts, lies in the specific character of the causes at work, not in the presence or absence of causes.

What has been until recently considered a commonplace is now in several quarters described and repudiated as a wild paradox. That an action can be characterized as both "determined" and "free," or "determined" and "responsible," is denied from two different points of view. The first view accepts determinism, indeed insists on it, because of the findings of modern medicine and psychotherapy, and then argues the invalidity of judgments of responsibility in any and every case. The second accepts the validity of the principle of responsibility, but denies the validity of the postulate of determinism or of its universal applicability.

II

THOSE who believe that one cannot legitimately square the doctrine of determinism with the acceptance of responsibility argue generally as follows: an individual is neither responsible nor blamable for his actions unless he could have acted differently from the way he did. Given the sum total of conditions which preceded his action, the latter is in principle always predictable or determined, and therefore unavoidable. But if an action is unavoidable, then no one can be held morally responsible for it.

The usual retort to this is to point out that an act is determined, among other things, by a wish or desire or volition for which we shall use the generic term "choice." Consequently it is sometimes true to say that if an individual had chosen differently, he would have acted differently. To which the rejoinder comes that this is merely an evasion. If every event is in principle predictable and therefore determined, then the choice itself, given all the antecedent conditions, is unavoidable. An individual cannot be held morally responsible for his choice if it could not have been other than it was. And even if it were true that his choice now was a consequence of an earlier choice, which *if* it had been different *would* have

led to different present choice and action, that earlier choice *could not* have been different, given its antecedent conditions, and so on for any other choice in the series. And since the choice could not have been different, we cannot blame the person choosing since he is not morally responsible. He is "a victim of circumstances."

There is a certain ambiguity in the writings of those who, accepting the principle of determinism, criticize the attribution of moral responsibility to individuals or the judgment of blameworthiness on their actions. Sometimes their criticism has an air of high moral concern. They imply that under certain circumstances, which they often spell out in advance, individuals are being improperly considered responsible. They inveigh against the injustice of improperly blaming those who, because their desires and choices are determined, are the victims not the agents of misfortune. This plea is sometimes forensically very effective, as the legal career of Clarence Darrow shows. Defending the accused in the Leopold-Loeb murder case, which is now enjoying a revival in popular concern, he said in his closing address to the jury, after quoting Housman's poem, the soliloquy of a boy about to be hanged, "I do not know what it was that made these boys do this mad act, but I know there is a reason for it. I know they did not beget themselves. I know that any one of an infinite number of causes reaching back to the beginning might be working out in these boys' minds, whom you are asked to hang in malice and in hatred and injustice, because someone in the past has sinned against them."

ONE does not, of course, look for precision in an *ex parte* plea. To a determinist, what difference does it make whether human beings are begotten by others, whether they reproduce by fission or by spontaneous generation in test tubes? In any case the process is determined. Of course we did not choose to be born. But suppose we did choose to be born: would that make us more responsible? The choice to be born would not

be any less determined. And if the argument is that in a determined world, where our choices are bound to be what they are, it is unfair to blame anybody for any action to which that choice leads, how would we be better off, i.e., more responsible, if we chose to be born? And if it is unjust to tax anyone with sinning who is not responsible for his being born, is it any more legitimate to speak of his being sinned against? If children cannot sin against parents, neither can parents sin against children.

Darrow's inconsistencies are less surprising than the fact that some sophisticated philosophers have adopted pretty much the same position.* They fortify it with complex and subtle elaborations of the findings of psychoanalysis as these bear upon the motives and compulsive behavior of men. Yet the logic of their argument makes all the evidence of psychoanalysis irrelevant to the question of blame and responsibility. For if every psychoanalytical theory were discarded as false, the life of mind would still be determined if one accepts the postulate of universal determinism. The piling up of the data which exhibit the specific mechanism of determination adds only a rhetorical force to the position. Further, it is one thing to imply that the concept of moral responsibility is empty, that although in fact no individuals are morally responsible, there are conditions or circumstances under which they could be legitimately held responsible; it is quite another thing to hold that the concept of moral responsibility is completely *vacuous*, that no matter what the specific conditions are under which men choose to act, it would still be inappropriate to hold them morally responsible or blame them. And it is this view, i.e., that moral responsibility is a vacuous or unintelligible expression, which seems to me to be entailed by those who urge Darrow's position, for they never seem able to indicate the rule or conditions for its proper use. If one cannot indicate any possible situation on a deterministic view under

*See *Determinism and Freedom in an Age of Modern Science*, edited by Sidney Hook (N.Y.U. Press, 237 pp., \$5.00), *passim*.

which actions can be blamed, the term "blame" is cognitively meaningless.

Nonetheless, the paradox of the position is that those who hold it blame us for blaming others. Just as the burglar in our story makes an appeal whose sense depends upon there being alternatives, that is upon the possibility of making or not making that specific appeal, so some philosophers find us blameworthy for not acting on the recognition that in a determined world in which no one chooses to be born, no one can be held at fault.

III

I THINK it will be pretty generally admitted that whether a person could or could not have acted differently (or have chosen to act differently), it is a fact that we do blame him for an action which is evil, if it is apparent that he is the cause of it. Whether we *should* blame him for the action is a question which we cannot decide without reflection, i.e., cannot decide until we discover whether what is apparently so, is actually so. "We should think in each case before we should blame" is a maxim universally agreed upon by all writers in this age-old discussion. But if "should blame" is an unintelligible expression, then so is "should think." If anyone interposes and objects that the belief that a person could not have acted (or chosen) differently under the circumstances entails the view that it is impermissible "to blame" or "to hold responsible," then by the same logic the belief that a person could not have thought differently entails the view that it is impermissible to say that "he should" or "he should not have" thought as he did. A philosopher who took that alleged entailment seriously would not only have to abandon the expressions "should have blamed" and "should not have blamed"—and restrict himself to asking whether "we will" or "we will not" blame—(an entirely different kind of question from the one which provoked the discussion originally)—he would have to forswear the use of "should" and "should not" in every other normative context.

This is not, as we shall see, merely a dialectical or debating point. It cuts the nerve of the argument of those who believe, like Darrow, that their position necessarily makes for greater humanity and kindness. As a matter of fact, such a position often makes for sentimentality—the refusal to blame or punish where blame and punishment may prevent actions which are undesirable. It often leads to pity for the criminal as a victim, not of a special set of particular circumstances which might have made it harder for him than for others to refrain from committing a crime, but as a victim of any circumstance in general (referred to as heredity and environment or the sway of the law of causality). This is sometimes carried to the point where there is not sufficient pity or compassion left for the criminal's victims, not only for his past victims but his future ones and the victims of others whose action the criminal may inspire. To blame and to punish, of course, are two distinct things logically (except when blame is considered a form of punishment), but psychologically there is a great reluctance to punish if one believes blame is absent. Darrow argued on the abstract *a priori* grounds of universal determinism that all men were blameless, and with his dramatic pleas often won acquittals, not on the specific evidence, but despite it. Yet surely, if needless pain and cruelty are evils, then punishment which prevents or deters actions likely to result in much greater pain and cruelty than it imposes on the guilty, is obviously the lesser evil. Without being a saint, one can forgive the pain a criminal causes to oneself; but not even a saint can claim that this therefore justifies him in forgiving the criminal the pain he causes others.

In passing I should like to comment on some peripheral points, confusion about which seems to have encouraged the view that belief in the incompatibility of determinism and moral responsibility is a mark of enlightenment. The first is that if one holds human beings blameless, one will necessarily treat them more humanely and eliminate capital punishment. But actually the issue

of capital punishment has nothing to do with the question of determinism and responsibility. The valid argument against capital punishment is that its abolition makes the rectification of occasional injustice possible. But such an argument presupposes precisely what Darrow and those who think like him deny, i.e., that it is blameworthy to punish an innocent man. And as for the humanitarian aspect of the situation, although Darrow won the Leopold-Loeb case with a plea for imprisonment of the criminals rather than their execution, the judge in announcing sentence declared: "Life imprisonment, at the moment, strikes the public imagination less forcibly than would death by hanging; but to the offenders, particularly of the type they are, the prolonged suffering of years of confinement may well be the severest form of retribution and expiation."

It may be argued that nonetheless there is a psychological if not logical connection between the view that determinism strictly entails the absence of moral responsibility and the abandonment of retributive punishment. This can be challenged on many grounds. From Augustine to Calvin and their latter-day followers, the torment of eternal damnation is assigned and approved independently of moral responsibility. It is not related of the oft-cited Puritan who piously observed to his son when they saw a man being led to the gallows: "There but for the grace of God go I," that he opposed retributive punishment. Nor could the determinist of this kind say that he morally *should* repudiate retributive punishment since he cannot help believing it. On the other hand, if it is retributive punishment which is the target of the analysis, there is no necessary logical connection between a belief in moral responsibility and approval of retributive punishment. Certainly those determinists who assign responsibility to actions only when there is reason to believe that blame or punishment will modify future conduct are hardly likely to defend retributive punishment which is directed exclusively to the past.

IV

ALTHOUGH the concept of moral responsibility in a deterministic system is neither empty nor vacuous, it is far from having a clear meaning in ordinary usage and experience. Before discussing it further I wish to comment briefly upon the position of those who accept the validity of the concept of moral responsibility, but believe they must therefore contest the belief in the postulate of determinism. Now it may be granted straightaway that we cannot prove that all events have sufficient causes, such that given these causes the events must occur. This is a postulate which we accept because of its fruitfulness in enabling us to predict and control our experience. Nor is it necessary to assume on the basis of this postulate that we can predict in principle the occurrence or emergence of all qualities of events. What is absolutely novel in experience cannot be derived either deductively or inductively from the qualities of the initial conditions or given data from which, together with general laws, we predict future events. Nonetheless we know enough about human behavior under everyday as well as laboratory conditions to make a reasonable induction the assertion that, given certain antecedent conditions, certain choices will be made (or even more strongly, certain choices are unavoidable). That we cannot always infallibly predict how people will choose is no more a decisive consideration against the belief that with more knowledge we can increase the accuracy of our predictions of human choices, than the fact that we cannot always infallibly predict the behavior of things is a decisive consideration against reliance upon the laws of physics. Now those who hold that the belief in moral responsibility entails an acceptance of indeterminism do not believe that *nothing* in the world is determined. They admit that some events, including some choices, are determined. And of the choices they believe undetermined, they are prepared to grant that certain *necessary* conditions of their occurrence exists. They deny that these undetermined choices follow from any set of *sufficient* conditions.

The difficulty with this view, as I see it, is that the distinction between determined and allegedly undetermined choices does not always correspond with the attributions we make or refuse to make of moral responsibility. It is sometimes said that in human relations the prediction that an individual will choose a certain course of conduct, if publicly made, has a consequence which may affect his choice. Suppose I predict that you will refuse to give alms to the beggar. You therefore set out to disprove my statement. Knowing this will be your reaction, I make a fresh prediction that you will give alms because I say you won't. Realizing I am now counting on your being shamed into giving alms, you truculently may refuse to do so. And no matter what further prediction I make, that prediction will have an effect which presumably I cannot rely on. Therefore, concludes Maurice Cranston, from whom I borrow the illustration, "that is why I say predictions made to you about you are impossible" (*Freedom*, 1954, p. 167). Karl Popper and D. M. MacKay have argued in a similar vein that "any proffered description of your choice would automatically be self-invalidating." The law of determinism even for macroscopic phenomena breaks down.

I do not believe such predictions are impossible, but let us grant the point for the sake of the argument. Now consider two situations. In the first I make a successful prediction about you but not to you, concerning your behavior or choice at the sight of a beggar in great distress. Here the choice or action is determined. In the second, I make an unsuccessful prediction to you about you, in relation to the beggar. Here your choice is allegedly undetermined. But now would anyone seriously maintain that you were not morally responsible for the action which I successfully predicted, but you were morally responsible for the action which I failed to predict because it was unpredictable? Unless other factors are introduced, it seems to me that you would hold yourself, and be held by others, equally responsible for your action with respect to the beggar in distress, quite independently of

the success of the prediction, independently of whether I made the prediction *to* you or *about* you to someone else. The predictability or unpredictability of the choice seems irrelevant to the question of its moral responsibility. And all this aside from the fact that it is highly disputable whether predictions made to you about you are in principle unconfirmable. All of us have seen human beings cleverly and unscrupulously manipulated by individuals who make predictions of their behavior to their face and shrewdly calculate the reactions to the predictions. A man who dares another to jump knowing that the person dared hardly ever resists a dare and that the leap in question is very hazardous, is morally guilty of murder.

THE great difficulty with the indeterminist view in most forms is the suggestion it carries that choices and actions, if not determined, are capricious. Caprice and responsibility are more difficult to reconcile than determinism and responsibility, for it seems easier to repudiate a choice or action which does not follow from one's character, or history, or nature, or self, than an act which does follow. Consequently, the more thoughtful indeterminists are those who do not deny the operation of determining forces or tendencies altogether, but insist upon a certain kind of determination which manifests itself in addition to, or over and above, the factors extrinsic to the particular situation in which the choosing individual finds himself. For example, they believe that the free action is not the habitual action, not the coerced action, not the instinctive or impulsive action, but the action which is determined by reflection. And as we shall see, there is a sense in which ordinarily we do characterize an action as responsible, depending upon whether it was intended, and if intended, upon the character and extent of the reflection which preceded it. But so long as "reasons" are not disembodied entities but express reflective choices of men in nature, there is nothing here at which a determinist need boggle. On the contrary, he may define the locus of moral freedom and

responsibility in the capacity of the human creature, using his insight and foresight, to modify his preferences and control his inclinations whenever they conflict or lead to "actions involving others."

Not only indeterminists who recognize moral responsibility, but some determinists who regard it as an empty concept, write as if a person would be responsible if he could "ultimately and completely shape or choose his own character." Surely the notion of ultimately and completely shaping or choosing one's own character is more difficult to grasp than any it would illumine. Since every decision to shape or choose one's character, to be responsibly attributed to oneself, must be one's own, and therefore is already an indication of the kind of person one is, the notion that one can ultimately and completely shape or choose one's character seems to be unintelligible. C. A. Campbell in a stimulating article distinguishes between a choice which is the expression of a formed character, and therefore determined, and a choice of a self. But aside from the difficulty of separating self from character, it is hard to understand why we should be more willing to accept responsibility or blame for the decision of a raw or pure self that has no history, than to accept responsibility or blame for the choices of our formed characters.

V

WE RETURN now to consider some of the difficulties which the determinist faces who attributes blame or responsibility to himself or others. If all actions are in principle predictable or unavoidable, how can he blame the actor? If every judgment of "ought" or "should" implies a "can" or "could," and if of every act we can say (once given its antecedent conditions) that it cannot or could not have been avoided, why blame, why praise, why, indeed, in a determined universe, pass any moral judgment whatsoever, whether it be on a petty sneak-thief or on a Hitler?

I shall try to show that the difficulty lies uniquely in the use of the concept of blame, not of praise, and not of moral judgment

per se. And the difficulty in the concept of blame is that ordinary usage is itself confusing, that the confusion requires a reconstruction of our use in such a way as to bring out more consistently and systematically the pragmatic character of judgments of blame. I do not believe that if we guide ourselves by ordinary usage we can make ends meet, because in this instance ordinary usage is vague and inconsistent.

First of all, although it may be difficult to square the belief that all choices are determined with judgments of blame and responsibility, I do not see that there is any difficulty in squaring the belief that all choices are determined with the moral judgment that these choices, and the actions to which they lead, are good or bad. Pain is evil, and an intentional action which imposes unnecessary pain, or a desire to impose unnecessary pain, is wicked. After all, we blame persons only for those acts of omission or commission which we condemn. If such actions were not initially or antecedently judged good or bad, we could not blame anybody for failing to do the one, or failing to prevent the other. No matter whether an action is determined or undetermined, accidental or intentional, I can still pronounce it good or bad. We may not blame the child whose actions cause the house to burn, or the maniac who kills those who minister to his wants; but we can and do deplore and condemn these actions as bad. And I believe that this is legitimate from the standpoint of any analysis of the meaning of "good" or "bad" which philosophers have offered, except the Kantian analysis. So, too, although there are difficulties about feelings of "remorse" similar to those about judgments of blame, I can only feel remorse about something I regret, and the qualities of the action I regret are what they are, independently of whether the action is determined or not.

It is sometimes said that if it is unwarranted to pass judgments of blame on actions that are predictable or unavoidable, it is also unwarranted to pass judgments of praise. I am not so sure of this, because of the broader

semantic range of judgments of praise. When we praise a person for his or her beauty, talent, intelligence, charm, personality, warmth, etc., etc., we do not have in mind at all whether or not the person could help being or doing that which evokes our praise. Formally, we can always praise a person for not committing an act that we would blame, and in this sense the logic of the judgments is symmetrical. But aside from such cases, and some others in which praise seems to be justified because an individual might have acted differently, e.g., in which he fights against odds instead of running away, there is an indefinitely large number of situations in which we unembarrassedly praise, regardless of whether the person can help being as he is or acting as he does. And when judgments of praise do not have this character, they may plausibly be regarded as having the social function of inducing individuals to do what we regard as desirable and to forgo doing the undesirable. But if it is possible to carry out such an analysis without difficulty for judgments of praise, is it possible to do so for judgments of blame and attributions of moral responsibility?

The facts of responsibility must be distinguished from their justification. By facts of responsibility I mean that in every society there are social relations or institutional arrangements which are regarded as binding on human behavior, for violations of which human beings are called to account. When individuals are called to account, this involves the possibility that sanctions may be applied. These facts of responsibility are an anthropological datum—varied and multi-form. In some cultures children are held responsible for their parents; in others, parents for children. Leaving aside questions of legal responsibility, or rather legal liability, which are often only matters of social convenience and rules of the road, the justification of responsibility is a moral question. Should a child be held personally responsible for the sins of its father, not only for the Biblical three generations, but even for one? Should a parent ever be held responsible for the misdeeds of his children? Now those who

hold that determinism is incompatible with reasoned judgments of blame presumably do not mean to deny the existence of the facts of responsibility. They simply contest the justification of the facts—not the justification of any specific fact of responsibility, but the possibility of any justification whatsoever on the determinist view. If this were true, then, since social life is impossible without recognition of some kind of responsibility in behavior, the whole basis of social life would appear utterly unintelligible, or if justified, only by some extrinsic consideration that had no moral relevance. But, as our illustration shows, there are obviously good reasons why in general we regard it as more justifiable to blame parents up to a point for the misdeeds of their children than to blame children for the misdeeds of their parents. First, we know there is some causal connection between the training or absence of training which parents give their children and the children's behavior outside the home, a causal connection which is not reversible; second, and more important, we blame parents for their children rather than children for their parents, primarily because in this way we can get more desirable conduct on the part of both parents and children. We influence the future by our judgments of blame and, to the extent that they are not merely judgments of spontaneous admiration or excellence, by our judgments of praise as well.

VI

THERE are some obvious difficulties with this interpretation of judgments of blame. For example, as C. A. Campbell observes, we can influence the future behavior of infants and animals by punishment, but we certainly do not blame them when we are reflective. On the other hand, we do not seem to be able to influence the future behavior of the hardened criminal, but we certainly do blame him. Further, how explain remorse, as distinct from regret, for actions committed long ago?

Because the behavior of children and animals is modifiable by appropriate reward and

deprivation, we punish them, even though we may hesitate to use the term to identify what we do. We do not "blame" them, however, even when we find it necessary to punish, because blame is directed to volitions, or, if we do not believe in volitions, to intentions. If children's actions reveal intentions or if we suspect, as we sometimes do, that animals have intentions, we count upon the sting of our blame to prod them to different behavior. Otherwise there is no point in blaming. But, it is objected, this only tells us whether our blame is effective rather than deserved. The blame is "deserved" if the action we wish to correct is bad, and the worse the action the more deserved—provided the blame has point in the first place. When we distribute blame—as when we say "I blame you more than I do him"—it is because we believe that the intentions (or volitions) of the one had a greater role in the commission of the act, or could have a greater role in preventing similar actions in the future, than the intention of the other. We must be able to answer the question what is the use of blaming any individual, before we can properly distribute blame among individuals. I can see no earthly use of blaming an individual, except directly or indirectly to prevent the undesirable act from being repeated in the future. This is the justification for blame in a determined world.

Another element enters into the picture. The more rational an individual is, the more susceptible he is to understanding and giving reasons, the more blameworthy we hold him—not because the intelligent man's choice is less determined than that of the stupid man's but because the choice, which is determined among other things by insight into reasons, is generally more informed, more persistent, and more decisive in re-determining the stream of events. We blame children more as they approach the age of rationality, not because they come into possession of a soul, not because they become more subject to causal laws, but because the growth of intelligence enhances the subtlety, range, and effectiveness of their choice. And if animals could think or respond to reasons,

we would blame them, too, because we could build up within them a sense of blame, shame, and responsibility. A sense of blame, shame, and responsibility has a sound therapeutic use in the moral education of men.

Why, then, do we blame the hardened criminal for his actions, when the continued life of crime makes blame and punishment almost as inefficacious in his case—so it is said—as in the case of an alcoholic, a dope addict, or a kleptomaniac? I believe here that most people in blaming a hardened offender are blaming him for the entire series of his actions and not only for his latest action; what revolts them is the cumulative series of evil things done; and they make the mistake of running these evils together, as if it were one great evil which one great blame or punishment might effectively forestall in the future, if not for the offender in question then for others. If, however, one were to isolate the latest dereliction of the hardened offender, and show that no blame or punishment one can devise is more likely to modify his conduct than blame or punishment can prevent an alcoholic addict from drinking or a kleptomaniac from stealing or a pyromaniac from arson, then I believe blame of the hardened criminal would be pointless. We would tend to regard him as criminally insane, confine him without blaming him.

IT IS sometimes said that we can legitimately blame only when the person blamed has failed to do his duty or live up to an obligation, and that wherever a person has a duty, wherever we say he "ought" to do something, then he in fact "could have" done so. As I have already indicated, I am not at all sure that our actual usage of terms like "blame," "duty," or "ought" in life and law bears this out. In some contexts "ought" clearly does not entail or even imply "can." "A, the contestant in a quiz, ought to have answered *x* instead of *y* to question *z*" is perfectly intelligible and leaves completely open the question whether he could or could not answer question *z*, or even see question *z*. Even in strictly moral situations, when I say, "Since he was on guard duty, he ought

not to have fallen asleep," I am not sure that I am implying necessarily that this particular soldier could have stayed awake, although I am undoubtedly referring to the general capacities of soldiers. But it is undoubtedly true that the evidence that this particular soldier had not slept for seventy-two hours and was assigned to guard duty by mistake, or that he suffered from sleeping sickness, leads to the judgment that he is not as blameworthy as a sentry who had had normal sleep and enjoyed perfect health. That the actions of both sentries, given the antecedent conditions, were determined or predictable, although in one case it was easier than in the other, seems irrelevant. Yet in one case we say that the sentry could not help falling asleep, and in the second we say he could help it. This produces the appearance of paradox. But if one is challenged to explain the judgment, he would probably say that no matter how hard the first sentry tried, it would not have helped him stay awake, whereas if the second sentry had tried, thoroughly rested and thoroughly healthy as he was, he could have remained awake. The distinction between what one can and what one cannot help doing is perfectly intelligible to a determinist, even though in concrete situations it may be difficult to determine which is which. Normally we do not go beyond that distinction. To the question: could he help trying? we normally reply in the affirmative, and expect the burden of proof to rest upon the person who claims that the second sentry could not help not trying because say (a) either he had been doped or (b) hypnotized. In both cases we are prepared to make allowances or excuses for anything which seems to be an external constraint upon choice or volition. But merely because an action is caused, it is not therefore excused.

Our ordinary common-sense judgments are here rather faltering, because the criteria of what is an external constraint as distinct from an internal constraint, and the distinction between an internal constraint which has originally been set up by an outside agency and one which develops naturally

within the system, are vague. The progress of science affects our moral judgment of wrongdoers by uncovering the *specific* factors which tend to make the *wrongdoing* uncontrollable by the volition or decision of the agent involved. If one believes that alcoholism is a disease which operates independently of what one wishes or of how one tries, one will judge differently from the way one will if alcoholism is regarded merely as a bad habit. In law as in common sense, the individual is expected to take responsibility for what is self-determined, for one's character or the kind of person one is, even though no one is completely self-determined. If A develops a fateful passion for B, given A's character, then although there may seem to be a tragic inevitability about the course of the affair, we normally do not expect A to duck responsibility by claiming that he could not help being born, or could not help having the character he has. However, if A, as in Tristan and Isolde, is the victim of a love potion administered by others, we are likely to feel and judge quite differently; for in that case it is not A's choice, but someone else's choice, which coerces his own. The cause was of a compelling kind. I venture to suggest that in all these cases the difference in our response does not depend upon our belief that in one class of situations the individuals are free to choose and in another they are not, but on the belief that, where responsibility and blame are appropriate, the uncompelled choice had some determining influence on the action, and that *our* judgments of responsibility and blame will have some influence upon the future choice of actions of the person judged, as well as on the actions of all other persons contemplating similar measures.

VII

I BELIEVE that considerations of this character are acted upon in many different fields of experience, and that where we excuse human beings from responsibility, it is not because of a belief in determinism generally, but only because specific investigation reveals specific causes which are interpreted

as of a "compelling" nature. Here is a person who is suffering from a very violent skin eruption accompanied by general malaise. Inquiry reveals that he is allergic to every variety of sea food. Now if he continues to eat sea food, we properly regard him as responsible for his plight. If he continues to bemoan his condition, we are inclined to think of him as a self-indulgent whiner who either does not know what he wants or wants to eat his eels but with impunity. However, if on the basis of independent evidence, we are convinced that he really wants to get rid of his allergy and its effects, then we suspect that perhaps some hidden hunger for iodine or some other element plentiful in sea food compels him despite himself to persist in his food habits. We no longer blame him. His craving for iodine is like the thirst of a diabetic. But if iodine in some other form is available, we expect him to take it. If he refuses, we revise our judgment once again. Given the antecedent conditions, the choice, of course, was unavoidable. But wherever it is possible to alter these conditions by informed action, *that* particular choice can no longer be regarded as unavoidable.

The law, when enlightened, offers perhaps the best illustrations of the relevant distinctions, especially in considering cases of those suspected of insanity. The McNaughton Rules, which until recently guided judges in Anglo-American countries, have been severely criticized for being too narrow in their conception of what constitutes responsibility in adults charged with crime. As far as they go, however, they recognize the distinction between a voluntary and an involuntary act. They exonerate a person of diseased mind from responsibility. Where the death sentence obtains, this means that the person of diseased mind cannot be executed. But these Rules conceive of mental disease primarily as "a defect of reason." A person of diseased mind is one who does not know what he is doing, or who did not know that what he was doing was against the law. Although humane at the time they were formulated, the McNaughton Rules

no longer reflect what we know today, or believe we know, about mental disease. According to these Rules, the "Mad Bomber of New York," whose actions showed that he knew very well what he was doing and that what he was doing was against the law, would have to be declared sane although he fervently believed that what he was doing—planting bombs in public places—was an appropriate way of getting even with the Consolidated Edison Company. Anyone found insane under the McNaughton Rules certainly could not have his behavior influenced by blame or punishment, since he does not know what he is doing and whether it is legal or not. Today insanity is considered a disabling emotional disorder; even if the unfortunate person has sufficient wit to know that he is violating the law, he may still be so emotionally disturbed as to be "beyond influence" by any threat of blame or punishment. Because an "emotional disorder" is a vaguer and more comprehensive term than knowledge or a defect of knowledge, it is more difficult to apply, particularly when individuals plead temporary insanity or uncontrollable impulse. But in all cases the rough-and-ready test is whether blame and punishment would tend to influence future behavior in similar situations.

THIS also explains why in the absence of a case history of emotional disorder we are, or should be, rightly suspicious of pleas that at the time a crime was committed the individual did not have sufficient power to prevent himself from committing it. "Temporarily insane" sounds like insanity made to order. Nonetheless, both in law and morals we do recognize situations in which, as the Scottish phrase goes, a person is guilty but with diminished responsibility. This may range from actions of self-defense to actions provoked by gross infidelity. It may be argued, however, that in many of these situations of "diminished responsibility," in which the subject is unquestionably sane, a severe sentence may have the effect of increasing responsibility.

One of the obvious absurdities of the view

that judgments of blame and responsibility cannot be squared with an acceptance of thoroughgoing determinism is that it wipes out or ignores the relevance of distinctions between the sane and insane, and undercuts the basis of rational legal and moral judgment with respect to intentional and unintentional actions. It suggests that the difference between the criminal and non-criminal is *merely* a matter of accidental power, that the difference between the sane and insane, the responsible and irresponsible, is only a question of majority and minority. It even goes so far as to call all moral terms into dispute. In the words of Clarence Darrow, "I do not believe that there is any sort of distinction between the moral condition in and out of jail. One is just as good as the other. The people here [in jail] can no more help being here than the people outside can avoid being outside. I do not believe that people are in jail because they deserve to be. They are in jail simply because they cannot avoid it, on account of circumstances which are entirely beyond their control and for which they are in no way responsible." To analyze this seems as cruel as dissecting a butterfly, except that its contradictions and sentimentalities have been incorporated in the attitudes of many social workers. But all we need ask is what sense the word "deserve" has on Darrow's view. If no action can *possibly* merit deserved punishment, on what ground can any punishment be justifiably considered "undeserved"? Once more we ask: if the people in jail can no more help being there than the people outside of jail can help being outside, how can those outside help jailing those on the inside? And, if they can't help it, why condemn them?

The belief that because acts are determined they cannot be morally responsible is a mistaken one. Not only is it a mistaken belief, it is a mischievous one. For far from diminishing the amount of needless suffering and cruelty in the world, it is quite certain to increase it. It justifies the infamous dictum of Smerdyakov in *The Brothers Karamazov*: "All things are permissible," if only

one can get away with them. One of the commonest experiences of teachers, if not parents, is to observe young men and women whose belief that they can't help doing what they are doing, or failing to do, is often an excuse for not doing as well as they can do, or at the very least better than they are at present doing. When we have, as we often do, independent evidence that they are capable of doing better, is it so absurd to hold them at least partly responsible for not doing better? Do we not know from our own experience that our belief that we are responsible, or that we will be held responsible, enables us to do things which had previously seemed beyond our power?

I do not think that the theories of psychoanalysis contradict the belief that moral responsibility is a valid concept of psychological experience. If they did it would be only additional evidence of their unempirical character. At any rate some psychoanalysts agree with Franz Alexander, who writes: "The fundamental principle, however, no matter what practical disposition is made [of the criminal delinquent] is that every person must be held responsible for the consequences of his acts." He concludes that this sense of moral responsibility is not only indispensable to society, but to individual growth. "A person reared according to the principle of responsibility will eventually internalize this feeling of responsibility towards others as a responsibility towards himself as well."

I must confess, however, that I find psychoanalytic literature full of inconsistencies on the subject, most of them present in Freud. For example, Freud's answer to the question: "Should a person be held responsible for his dreams, which are the products of unconscious forces over which he has no conscious control?" was, "Who else but the dreamer should be responsible for his dreams?" This seems to me a clear equivocation. The question speaks of *moral* responsibility, Freud replies in terms of causal attribution. Certainly if in a sleepwalking dream an individual did something hurtful

or mischievous, no reasonable person would hold him morally or legally responsible.

What often passes as irremediable evil in the world, or the inevitable ills and suffering to which the flesh is heir, is a consequence of our failure to act in time. We are responsible, whether we admit it or not, for what it is in our power to do; and most of the time we can't be sure what is in our power to do until we attempt it. If only we are free to try, we don't have to claim also to be free to try to try, or look for an ultimate footing in some prime metaphysical indeterminate to commit ourselves responsibly. Proximate freedom is enough. And although what we are now is determined by what we were, what we will be is still determined also by what we do now. Human effort can within limits re-determine the direction of events even though it cannot determine the conditions which make human effort possible. It is time enough to reconcile oneself to what is unalterable, or to disaster, after we have done our best to overcome them.

THERE are some people—even some philosophers—who, observing the human scene, declare themselves unable to give an intelligible meaning to judgments of human responsibility. They say: "It's all a matter of luck." This is no more sensible than saying, "Nothing is a matter of luck," even if "luck" has an intelligible meaning in a determined world. It is true that we did not choose to be born. But from this it only follows that we should not blame or punish anyone merely for being born, whether he is black or white, male or female. It is also true that we choose, most of us adults who are sound of limb and mind, to keep on living. And if we do, we bear a contributory responsibility for remaining in the world. The Stoics, who so lamentably confused physics and ethics, were right in pointing out that most of us are free to leave "life's smoky chamber." It is not true that everything which happens to us is like "being struck down by a dread disease." The treatment and cure of disease, to use an illustration that can serve as a moral paradigm of the whole human situ-

ation, would never have begun unless we believed that some things which were did not have to be; that they could be different; and that we could make them different. And what we can make different, we are responsible for.

With respect to judgments of blame and responsibility, the pragmatic theory stresses not the multiplication of such judgments, but only their use as means of individual help and social protection. It eschews the automatic judgment of blame and responsibility, in order to devote itself to the difficult task of discriminating in the light of all the relevant scientific evidence what it is reasonable or unreasonable to expect from a human being in the situation in which he finds himself. It also expresses a certain human ideal of man as a contributing maker or creator of his own destiny, rather than as a passive creature of fate. Sickness, accident, or incapacity aside, we feel lessened as human beings if our actions are always excused or explained away on the ground that, despite appearances, we are really not responsible for them. For whoever treats us this way is treating us like an object or an infant, or like someone out of his mind. Our dignity as rational human beings sometimes leads us to protest when an overzealous friend seeks to extenuate our conduct on the ground that we are not really responsible, that we are either too stupid to know, or too lost in illusion, really to intend to do what we actually have done. There are times when this unfortunately is only too true. But there are also times when we burst out and declare that we really are responsible, that we know what we are doing and are prepared to take the consequences. As bad as the priggishness of the self-righteous is the whine of the self-pitying. To the extent that the priggishness and the whine follow from mistaken beliefs about blame and responsibility, they are both avoidable. In the end, but only in the end, our character is our fate. But until the end, it is a developing pattern on which we work with whatever courage and intelligence we have. To that extent we make our character.